IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

CRP.No. 3358 OF 2001(D)

OP.409/1999 OF ADDL. DISTRICT COURT, THALASSERY

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REVN. PETITIONER/PETITIONER:

PUNNAKKAL YESODA, S/O. NANU,
AGED 59 YEARS, PUNNAKKAL HOUSE,
KANHIRODE AMSOM, THATTIODE DESOM,
KOODALI (P.O.)

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.GEORGE SEBASTIAN

RESPONDENT/RESPONDENT :

KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY,
K.S.E.B., TRIVANDRUM.

BY ADV. SC,KSEB.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/07/2007 THE COURT ON THE SAME DAY, PASSED THE FOLLOWING:

P.R. RAMAN, J.

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C.R.P. NO. 2358 2001

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DATED THIS, THE 13TH DAY OF JULY, 2007.

O R D E R

Petitioner herein filed O.P. 409/1999 before the Additional District Court, Thalassery, under Section 16(3) of the Indian Telegraph Act read with Section 51 of the Indian Electricity Act seeking enhanced compensation for the trees cut and removed by the Electricity Board for drawing electric line through her property. Para 21 of the order passed by the court below reads as follows:

> "In these circumstances justice demands that the petitioner should get interest on the amount of compensation. On the enhanced compensation they can be given interest from the date of petition till the date of payment, but on the amount of compensation already paid, they can be given interest from the date of cutting till the date on which the said amount was paid. "

2. This along with other cases were disposed of by a common order. Though in all other cases, interest was rightly calculated, in the operative portion of the judgment passed by the court below in the case of the petitioner alone in O.P. 409/99, it was held that the petitioner is entitled to enhanced compensation of Rs. 35,698/- with interest thereon at the rate of

9% per annum from the date of payment, and also at the same rate on Rs . 40,772/- from the date of cutting till the date on which that amount was paid.

3. Obviously, there is a mistake crept in the operative portion as is evident from paragraph 21. Instead of directing payment of interest on enhanced compensation from the date of petition, by mistake, it is stated 'from the date of payment, though as regards the compensation already fixed by the Electricity Board, it was rightly stated that interest is payable from the date of cutting. This would have been rectified by filing an application under Section 152 of the Code of Civil Procedure instead of filing a civil revision petition. However, now relegating the petitioner to approach the court below will only cause unnecessary hardship.

4. In the circumstances, there will be a direction that the petitioner will be entitled for 9% interest on the enhanced compensation from the date of petition instead of from the date of payment as observed in the operative portion of the judgment of the court below. The judgment of the court below will stand corrected as above.

No other relief is claimed in this civil revision petition. The civil revision petition is allowed to the above extent.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.
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C.R.P. NO. 3358/2001
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O R D E R

13TH JULY, 2007.